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SUBJECT: NICARAGUA: MKJ SIGNS OIL EXPLORATION AGREEMENTS
WITH THE GOVERNMENT (AGAIN), INFINITY STILL ON HOLD

REF: A. 07 MANAGUA 01217
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Classified By: Ambassador Paul Trivelli, Reasons 1.4 (b) and
(d)

11. (C) Summary. President of MKJ Eric Conrad and Nicaraguan Attorney General Hernan Estrada signed oil and gas exploration and production concession agreements for two offshore blocks located 60 miles off the coast of Nicaragua in the Caribbean Sea on April 8. The agreements are essentially identical to those signed by the previous administration, but declared void by the Supreme Court for lack of consultation with the local governments of the Autonomous Region of the North Atlantic (RAAN) and the Autonomous Region of the South Atlantic (RAAS). MKJ has agreed to sell the two blocks to Noble Energy of Houston, Texas in the near future. Infinity Energy Resources awaits the outcome of Ministry of Energy and Mines consultations with RAAN and RAAS authorities on two other offshore concessions that the Supreme Court declared void for similar reasons. End summary.

12. (C) On April 8, President of Louisiana-based independent oil company MKJ Eric Conrad and Nicaraguan Attorney General Hernan Estrada signed oil and gas exploration and production concession agreements for two offshore blocks located 60 miles off the coast of Nicaragua in the Caribbean Sea. The agreements are essentially identical to those signed by the previous administration, but declared void by the Supreme Court for lack of consultation with the governments of the Autonomous Region of the North Atlantic (RAAN) and the Autonomous Region of the South Atlantic (RAAS). MKJ did make minor adjustments to align the revenue sharing portions allotted to each autonomous region and provide some additional funding to the Ministry of Energy and Mines for training.

Signing Ceremony in the Midst of RAAN Turmoil

13. (C) The Attorney General's office sought to limit press coverage to the signing ceremony to avoid questions about the political turmoil in the RAAN. Citizens there took to the streets -- and violence erupted -- after the Supreme Electoral Council announced that it would postpone elections scheduled for November in three municipalities. No one from

the RAAN attended the ceremony. However, Minister of Energy and Mines Emilio Rappaccioli showed, as did representatives of the Southern Atlantic region, MKJ partner Noble Energy, and the Ambassador.

MKJ to Sell Rights to Noble Energy

¶4. (C) MKJ plans to transfer its rights to partner Noble Energy in the near future. If the government does not approve the consignment of concession rights to Noble Energy, Noble Energy may simply acquire MKJ. Internationally, Noble Energy currently manages oil and/or gas projects in Argentina, Chile, Ecuador, Equatorial Guinea, Israel, the Mediterranean Sea, the North Sea, and Suriname.

¶5. (C) The two blocks, named the Tyra Bank and the Isabel Bank, each cover approximately 400,000 hectares in water depths of between 50 meters and at least 1000 meters. To date, no exploration has been undertaken within these blocks and only limited seismic data exists. Noble Energy will perform an environmental impact study before conducting seismic studies and a geophysical analysis to determine whether an exploratory well and/or a drilling plan is justified.

Satisfying the Supreme Court Ruling

¶6. (C) The "new" concessions are the result of a 2006 Supreme Court ruling (prompted by an FSLN-inspired legal complaint) that the government should have consulted the RAAN and the RAAS before concluding the original concessions, despite the fact that both concession blocks fall outside the 33-mile territorial waters granted to the autonomous regions by the Nicaraguan constitution. MKJ originally won the concessions as the result of an international tender in 2003. In 2004, MKJ signed concession agreements for a six-year primary exploration period followed by a thirty-year production period. The concessions that MKJ signed on April 8, 2008, refresh the clock for both of these periods.

Renegotiations Sandinista Style

¶7. (C) At one point in the renegotiation of the concession, President Ortega pressed MKJ to meet with representatives of Petroleos de Venezuela (PDVSA) to discuss possible collaboration on the project. MKJ had little desire to do so, since partner Noble Energy brings all the capital, technology, and production capabilities needed to pursue the project. Nevertheless, Rappaccioli organized several meetings with PDVSA, only to have PDVSA fail to show. At Ortega's personal request, MKJ representatives flew to Caracas to meet with PDVSA. In Caracas, PDVSA confirmed that, indeed, it had no interest in MKJ's project and the Nicaraguans soon dropped the issue.

¶8. (C) At another point in the consultation process, the Ministry of Energy and Mines requested that MKJ fund expenses for the RAAN and RAAS councils to conduct an extraordinary session to review the concessions. Nicaraguan law provides for such a request, as long as funding is not contingent upon a favorable decision. MKJ notified the Embassy and the Overseas Private Investment Corporation (its political risk insurer) of the Ministry's request in advance. In the end, the Ministry organized the extraordinary sessions, where it presented MKJ's proposed concession agreements. MKJ did not attend. The governing councils of the RAAN and the RAAS approved the concessions.

Infinity Energy Resources Still on Hold

¶9. (C) Kansas based Infinity Energy Resources participated in the same 2003 tender and signed an exploration and production agreement for two offshore concessions adjacent to MKJ's. The Supreme Court ruled that Infinity Energy Resources

concessions were invalid for the same reason as MKJ's. Infinity awaits the outcome of Ministry of Energy and Mines consultations with the RAAN and the RAAS. Neither MKJ nor Infinity is affected by the ongoing dispute over territorial waters between Nicaragua and Columbia that is before the International Court of Justice (Ref B).

¶110. (C) In general, Infinity has benefited from having MKJ work through many issues with the government and the governing councils of the RAAN and the RAAS. Infinity has received no pressure, for example, to include PDVSA as a partner. However, Infinity and the Ministry of Energy and Mines must explain fundamental differences to the RAAN and RAAS governing councils between its concessions and MKJ's concessions. At the same time, politics are getting in the way.

¶111. (C) Earlier in 2008, President Ortega insisted that Sandinista political operative Lumento Campbell be Infinity's point person for gaining approval from the RAAN and the RAAS governing councils, replacing a well-known and popular representative from the indigenous population. This switch clearly upset Campbell's opponents, as both the RAAN and the RAAS governing councils made a point of failing to approve Infinity's concessions. Ongoing political turmoil in the RAAN over the government's postponement of elections in three important municipalities threatens to make the growing divide within the RAAN governing council insurmountable for Infinity and the Ministry of Energy and Mines in the near term. The RAAS governing council has generally supported both MKJ and Infinity's projects, but its approval cannot be taken for granted in the current politically charged environment.

Nicaraguan Interest in OPIC Housing Finance

¶112. (C) Both MKJ and Infinity are political risk insurance clients of the Overseas Private Investment Corporation (OPIC). OPIC President and CEO Robert Mosbacher visited Nicaragua on several occasions during the past year to encourage reinstituting these concession agreements and to advance OPIC programs. President Ortega has expressed strong interest in OPIC financing and development programs to help low-income Nicaraguans own their own home. OPIC has indicated its willingness to consider such programs as soon as oil exploration concessions have been restored.

Comment

¶113. (C) MKJ's path to its concession has been lengthy and tortuous. Nonetheless, the way is now clear for MKJ and/or Noble Energy to undertake serious exploration for oil and/or gas. We expect that Infinity will eventually sign a new concession as well. The Government of Nicaragua has made the process painful, but in this case at least, it has done the minimum necessary to let an international investment go forward.

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